

**SUPREME COURT OF NOVA SCOTIA**  
**Citation:** Cole v. Luckman, 2012 NSSC 118

**Date:** (2012-03-28)  
**Docket:** 1209-001119  
**Registry:** Yarmouth

**Between:**

Kenneth Gary Cole

Petitioner/Responding Party

v.

Patricia Lee Luckman (Cole)

Respondent/Moving Party

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**Judge:** The Honourable Justice Pierre L. Muise

**Heard:** May 25 and 26 in Annapolis Royal and July 13, 2011 in Digby

**Final Written Submissions:** August 30, 2011

**Summary:** Ms. Luckman filed this motion for a determination of the issues of asset division and spousal support. She sought an equal division of farming and matrimonial assets based on: her contributions to the business; and, the co-mingling of the household and farm operations. Mr. Cole sought an equal division of only matrimonial assets based on Ms. Luckman's contributions to the business being minimal and her having been paid for her services. During the 24 to 25 year marriage, Mr. Cole worked in his own farrier and farming business, and drove a school

bus. Ms. Luckman has a degree in architectural drafting. During the marriage she only worked intermittently, mostly in retail. She mainly worked in the home, caring for the children and the household, and assisted in the farming operation. Mr. Cole continues to work in the same occupations. Ms. Luckman is now employed full-time with the Valley Credit Union. Her income tax returns show a much higher income than his do, after farming losses are deducted. She alleged he earned more income than what was reflected in his income tax returns.

**Issues:** Credibility and reliability of the witnesses; division of assets and debts; and, whether spousal support should be paid by either party.

**Result:** Mr. Cole was found to be much more credible than Ms. Luckman. Ms. Luckman was entitled to: 50% of the matrimonial assets; 15% of the farming business; and, 10% of the farrier business. Considering the assets retained, payments made and debts assumed by the parties, an appropriate division of assets and debts would be effected by Ms. Luckman paying \$2,546 to Mr. Cole. It was not established that Mr. Cole's tax returns did not reflect his actual income. The economic disadvantages suffered by Ms. Luckman led to an entitlement to spousal support; but, Mr. Cole had no ability to pay. Her income had become higher than his. Mr. Cole had not been financially dependent on Ms. Luckman and had not suffered economic hardship from the breakdown of the marriage. Neither party was ordered to pay spousal support.